

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE JOINT RESOLUTION NO. 56

97TH GENERAL ASSEMBLY

Reported from the Committee on Seniors, Families and Pensions, May 15, 2014, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

4458S,04C

JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment to article I of the Constitution of Missouri, and adopting one new section relating to parental rights.

Be it resolved by the Senate, the House of Representatives concurring therein:

That at the next general election to be held in the state of Missouri, on
2 Tuesday next following the first Monday in November, 2014, or at a special
3 election to be called by the governor for that purpose, there is hereby submitted
4 to the qualified voters of this state, for adoption or rejection, the following
5 amendment to article I of the Constitution of the state of Missouri:

Section A. Article I, Constitution of Missouri, is amended by adding one
2 new section, to be known as section 35, to read as follows:

Section 35. 1. That parents have a fundamental right to exercise
2 **exclusive control over the care, custody, and upbringing of their minor**
3 **children, including all decisions involving the discipline, education,**
4 **religious instruction, health, medical care, place of habitation, and**
5 **general well-being of such minor children.**

6 **2. Parents have a responsibility to ensure that their minor**
7 **children receive a program of academic instruction which they**
8 **regularly attend while the child is of an age prescribed by law for**
9 **school attendance. Parents have the right to choose to educate their**
10 **children in public schools, private schools, parochial schools, parish**
11 **schools, in-home education or a combination thereof to prepare them**
12 **for future obligations in life.**

13 **3. Neither the state nor any political subdivision, nor any**
14 **agency, entity, or person acting on behalf of the state or any political**

15 subdivision, shall dictate through rule or regulation or other device the
16 content of curriculum to be used by private schools, parochial schools,
17 parish schools, or for in-home instruction or a combination thereof,
18 with the exception of laws which may require instruction in the United
19 States Constitution and this constitution. Neither the state nor any
20 political subdivision, nor any agency, entity, or person acting on behalf
21 of the state shall require any private, parochial, or parish school to
22 include in its curriculum any concept, topic, or practice in conflict with
23 the school's religious doctrines or beliefs; nor shall the state or any
24 political subdivision, or any agency, entity, or person acting on behalf
25 of the state require a parent providing in-home education to include in
26 a student's curriculum any concept, topic, or practice in conflict with
27 the parent's religious belief.

28 4. Neither the state nor any political subdivision, nor any
29 agency, entity, or person acting on behalf of the state or any political
30 subdivision, shall act to deny or impair the fundamental right of
31 parents to direct the upbringing, education, and care of their
32 children. However, the fundamental right of a parent to control and
33 direct the care, custody, and upbringing of a minor child may be
34 modified or restricted by a court of law when a parent has been found
35 guilty of or pleads guilty to a crime of violence against a child, abuse
36 of a child, kidnapping or abduction of a child, enticement of a child,
37 abandonment of a child, endangering the welfare of a child, sexual
38 abuse of a child, sexual conduct or any other sexual offense against a
39 child or involving a child, production, distribution, or possession of
40 child pornography, human trafficking, domestic violence, or criminal
41 nonsupport; or when a parent has engaged in felonious conduct as
42 prescribed by law or a consistent pattern of unlawful conduct which
43 renders that parent unfit to care appropriately for the needs of a child;
44 or when a parent has been found by a court of law by a preponderance
45 of the evidence to have committed child abuse, child neglect or medical
46 neglect, or been found responsible for jeopardizing the life, health and
47 safety of a child; or as a result of adoption, guardianship, foster care,
48 paternity, child abandonment, mental incompetency, or marital
49 dissolution proceedings; or when a child has been conceived and born
50 as a result of an act of rape or incest; or through the voluntary consent
51 of the parent of a child. Involuntary termination of parental rights

52 shall only occur as prescribed by law in accordance with this section
53 when a court of law has determined based on clear, cogent and
54 convincing evidence that a parent is unfit to be a party to the parent
55 and child relationship and that termination of parental rights is in the
56 best interest of the child.

57 5. Nothing in this section shall be construed to diminish the
58 authority of peace officers and law enforcement officials to take
59 necessary actions to safeguard the welfare of a child whose life, health,
60 or safety is in jeopardy; or of courts of law to provide for temporary
61 custody of a child in emergency situations to protect the life, health,
62 and safety of such child; or of juvenile courts to assume jurisdiction
63 over a minor child who has been charged with or found guilty of or
64 pleads guilty to offenses against the law, is engaged in actions injurious
65 to the welfare of the child or others, or is beyond the control of the
66 parents; or of courts of law to issue child protection orders for a child
67 whose life, health, or safety is in jeopardy; or of state authorities to
68 investigate allegations of child abuse, child neglect, or medical neglect
69 in accordance with this section.

70 6. Nothing contained in this section shall be construed to nullify
71 statutes which authorize a minor child to consent to specific surgical
72 or medical treatment that has been prescribed by law.

73 7. Nothing contained in this section shall be construed to confer
74 upon a parent the right to compel a minor child to undergo an
75 abortion.

76 8. Nothing contained in this section shall be construed to
77 empower a parent to enroll his or her minor child in a public school
78 outside of the area of that child's residence, except as otherwise
79 provided by law.

80 9. Nothing contained in this section shall be construed to confer
81 authority on a parent of a public school student, not otherwise
82 authorized in statute, to dictate to school administrators the
83 curriculum or program choices, or levels of service, to be provided to
84 the parent's minor child; nor to confer authority on a parent to modify
85 or change the curriculum, program choices, instructional methods, or
86 levels of educational services a public agency is required to provide to
87 the parent's child pursuant to federal law; nor to empower a parent to
88 overrule disciplinary decisions made by public school authorities with

89 regard to that parent's child that are consistent with the school
90 district's written discipline policy adopted pursuant to state law;
91 provided that students shall be afforded the religious freedoms
92 recognized in Section 5 of this Article.

93 10. Nothing in this section shall create any new or expanded
94 right under Article IX of this constitution, or create any cause of action
95 to force the state or any political subdivision of the state to provide
96 funding pursuant to Article IX of this constitution.

97 11. As used in this section, the following terms shall mean:

98 (1) "Child abuse", any physical injury, sexual abuse, or emotional
99 abuse inflicted on a child other than by accidental means by those
100 responsible for the child's care, custody, and control; except that
101 discipline, including spanking, administered in a reasonable manner,
102 shall not be construed to be abuse;

103 (2) "Child neglect", failure to provide by those responsible for the
104 care, custody, and control of the child the necessary shelter, nutrition,
105 clothing, or medical care, or education in a public, private, or in-home
106 education setting, or any other care essential to the child's well-being;

107 (3) "Jeopardizing the life, health, and safety of a child", any
108 action or failure to act wherein a parent knowingly creates a
109 substantial risk to the life, body, or health of such parent's child; or any
110 deliberate acts of the parent or acts of another of which the parent
111 knew or should have known subjects the parent's child to a substantial
112 risk of physical or emotional harm; or a condition of chemical
113 dependency or chronic substance abuse that impairs the ability of a
114 parent to provide appropriate care, custody, or control of a child; or
115 any action wherein a parent encourages, aids, or causes a child to
116 engage in conduct which violates the law;

117 (4) "Medical neglect", the denial or deprivation of medical or
118 surgical treatment or intervention which is necessary to remedy or
119 ameliorate a medical condition which is life-threatening or would
120 result in serious injury;

121 (5) "Mental incompetency", a persistent or recurring lack of
122 mental capacity or mental capability which prevents a parent from
123 providing necessary care, nutrition, clothing, habitation, health care,
124 or education to the child of such parent;

125 (6) "Parent", a biological parent of a child, including the husband

126 **of a natural mother at the time the child was conceived, or the parent**
127 **of a child by adoption, or as otherwise provided by law.**

Section B. Pursuant to chapter 116, RSMo, and other applicable
2 constitutional provisions and laws of this state allowing the general assembly to
3 adopt ballot language for the submission of a joint resolution to the voters of this
4 state, the official ballot title of the amendment proposed in section A shall be as
5 follows:

6 "Shall the Missouri Constitution be amended to ensure:

7 That parents have a fundamental right to control and direct the care, education,
8 and upbringing of their minor children; and that courts of law and law
9 enforcement officers may act to protect the life, health, and safety of minor
10 children?".

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